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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.406 OF 1989

The State of Maharastra, .
Thru' The Special Land Acquisition .
Officer, Metro Centre No.1, Panvel ...Appellant
V/s.
Namdeo Maruti Mhatre, since deceased, .
by his L.Rs. ...Respondents

WITH

FIRST APPEAL NO.1071 OF 1989

Namdeo Maruti Mhatre, since deceased, .
by his L.Rs. ...Appellants
V/s.
The State of Maharastra, .
Thru' The Special Land Acquisition .
Officer, Metro Centre No.1, Panvel ...Respondent

Mr.B.H. Mehta, AGP, for the State of Maharashtra in both the Appeals.

Mr.Rajesh Parab, Advocate, for the claimants in both the Appeals.

CORAM : ABHAY S. OKA, J.

DATE : 12TH FEBRUARY, 2008.

ORAL JUDGMENT :-

1. These two Appeals can be disposed of by a common Judgment as the same arise out of the same impugned Judgment and Award under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "the said Act").

2. The acquisition relates to land bearing Survey No.564 Hissa No.3 and Survey No.564 Hissa No.1 admeasuring 57.5 Ars situated at Village Panvel, Taluka Panvel, District Raigad. The acquired land was notified under Section 4 of the said Act on 3rd February, 1970 for the public purpose of setting up of satellite city of Navi Mumbai. An Award was made under Section 11 of the said Act on 28th February, 1986. As the claimant did not accept the amount offered by the Award, at his instance, a Reference under Section 18 of the said Act was made. The claimant prayed for market value at the rate of Rs.20/- per sq.meter. By the impugned Judgment and Award, the learned Trial Judge fixed the market value at the rate of Rs.15/- per sq.meter. The learned Trial Judge granted statutory benefits to the claimant.

3. First Appeal No.406 of 1989 is preferred by the State of Maharashtra praying for setting aside the impugned Judgment and Award. First Appeal No.1071 of 1989 is preferred by the original claimant seeking enhancement in compensation.

4. The submission of the learned AGP appearing in

support of First Appeal No.406 of 1989 is that considering the evidence on record, compensation awarded is exorbitant. His submission is that there is no evidence on record justifying fixation of market value at the rate of Rs.15/- per sq.meter. The learned Advocate appearing for the legal representatives of the claimant relied upon various decisions of this Court and submitted that for a similarly situated land, a Division Bench of this Court has awarded market value at the rate which is much more than Rs.20/- per sq.meter.

5. I have carefully considered the submissions. My attention has been invited to a decision of Division Bench of this Court in the case of Nama Padu Hudar and Ors. V/s. State of Maharashtra (First Appeal No.754 of 1986) with other connected First Appeals. The said group of Appeals was decided by a Division Bench of this Court [Coram : S.W. Puranik and D.J. Moharir, JJ] on 25th and 26th February, 1993. The Division Bench dealt with a group of Appeals arising out of Awards under Section 18 of the said Act relating to large numbers of lands situated at villages Panvel and Kamothe, Taluka Panvel, District Raigad which were notified under Section 4 of the said Act on 3rd February, 1970 for the public

purpose of setting up of satellite city of Navi Mumbai. The Division Bench divided the lands into five different categories for the purposes of fixing the market value. The division of lands subject matters of the Appeals before the Division Bench was made on the basis of the distance of the acquired lands either from Bombay-Pune National Highway or from the Zilla Parishad Road or Gaothan. Higher market value was fixed in case of lands closer to the highway. The decision of the Division Bench has attained finality in the sense that no Appeal was preferred against the said Judgment. It must be also noted here that the said decision of the Division Bench has been expressly approved by the Apex Court in its Judgment dated 6th March, 2006 in Civil Appeal No.1557 of 2006 (Shantadevi H. Ruparel V/s. Special Land Acquisition Officer & Anr.). In fact the Apex Court directed that compensation shall be awarded to the land subject matter of the Appeal before it in terms of the decision of the Division Bench in the case of Nama Padu Hudar (supra). It is an admitted position that large tracts of lands situated at Villages Panvel, Kamothe, Taloja, Pendhar, Ulwe and other villages in Taluka Panvel of District Raigad were notified for acquisition by the same notification dated 3rd February, 1970 for the same public purpose.

The lands in these villages which were subject matter of acquisition were agricultural lands.

6. Therefore, the decision of the Division Bench in the case of Nama Padu Hudar will be certainly relevant for deciding the market value in the case in hand, as the acquired land subject matter of the case in hand is situated at Village Panvel. The acquired land was also acquired alongwith the lands subject matter of the Appeals before the Division Bench in the case of Nama Padu Hudar. It is, therefore, obvious that the market value in the present case will be governed by the said decision of the Division Bench. The categorisation made by the Division Bench is as under:-

Group No.	**First Appeal No.**	**S.No.**	**H.No.**	**Area Sq.Mt.**	**Rate Granted P.S.M. Rs.Ps.**
I.	754/1986	671	1(Part)	8240	25.00
Abutting					
the Highway	763/1986	694	2	5870	25.00
		698	2	510	25.00
		704	7	1060	25.00

		704	2	3310	25.00
II.	751/1986	598	2/5	4270	23.00
Within	(Part)				
800 Metres	756/1986	665	1B	2450	23.00
		665	1D	1800	23.00
		663	1/5	1340	23.00
		660	3	5830	23.00
III.	753/1986	614	2	3100	22.00
Abutting	751/1986	617	2	4350	22.00
Kamothe Z.P.	(Part)				
Road to 1200					
Metres	752/1986	548	7(Part)	2500	22.00
IV-A	755/1986	209	9	4560	20.00
800 Mtrs.to					
2200 Mtrs.		213	10	1900	20.00
from Bombay-					
Poona Highway					
IV-B					
200 Mtrs.					
from Z.P. Rd.	743/1986	240	2	1900	20.00
& Gaothan to					
640 Mtrs.					

from Z.P. Rd. & Gaothan	274	2	4760	20.00

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7. In the present case, the claimants have lead evidence. The claimants have examined their constituted attorney as well as one Jeevan Narayan Kulkarni, a valuer, as a witness. The said Mr.Jeevan Narayan Kulkarni deposed that the distance of the acquired land from Highway is 720 meters. The said statement also forms a part of the report submitted by Mr.Kulkarni which has been admitted in evidence. There is hardly any cross-examination of Mr.Kulkarni on this aspect. Thus, the acquired land falls in category II fixed by the Division Bench in the case of Nama Padu Hudar. The market value will have to be fixed at the rate of Rs.23/- per sq.meter. But, the original claimant has claimed market value at the rate of Rs.20/- per sq.meter. Hence to that extent, the Appeal preferred by the original claimant must succeed. The Appeal preferred by the State Government will have to be dismissed. Considering the date of the Award under Section 11 of the said Act, there is no dispute regarding grant of statutory benefits.

8. Hence, I pass following order:-

"O R D E R"

(a). First Appeal No.406 of 1989 is dismissed. The appellant will pay costs of the Appeal to the respondents.

(b). First Appeal No.1071 of 1989 is allowed. The impugned Judgment and Award dated 18th July, 1988 is modified by directing that the claimants will be entitled to market value at the rate of Rs.20/- per sq.meter. In addition to the said market value, the claimants will be entitled to statutory benefits under Section 23(1-A), 23(2) and (28) of the Land Acquisition Act, 1894.

(c). The claimants will be entitled to the proportionate costs of the Reference from the State Government.

(d). The Reference Court will calculate the compensation amount payable to the claimants within a period of four months from the date of receipt of writ of this order.

(e). The respondent-State Government will pay costs of the First Appeal No.1071 of 1989 to the appellants in the said Appeal.

(f). Writ to be sent down immediately.

[ABHAY S. OKA, J.]